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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,910	06/14/2005	Norman Faiola	156-037	5139
40621	7590	04/30/2009	EXAMINER	
PASTEL LAW FIRM			CHIN, RANDALL E	
CHRISTOPHER R. PASTEL				
8 PERRY LANE			ART UNIT	PAPER NUMBER
ITHACA, NY 14850-9267			3723	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/538,910	FAIOLA, NORMAN	
	Examiner	Art Unit	
	Randall Chin	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 February 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10, 13, 14 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10, 13, 14 and 18-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. At the outset, the status identifiers "(originally filed)" should just read -(original)--.

Claim Objections

2. Claims 2, 5 and 6 are objected to because of the following informalities:

Claim 2, line 1, "clamping member" should read -clamping mechanism--.

Claim 5 is redundant of claim 4 since claim 5 depends on claim 4.

Claim 6, line 1, "clamping member" should read -clamping mechanism--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6-8, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Rix et al. 1,553,915 (hereinafter Rix).

As for claim 1, the patent to Rix discloses an apparatus, comprising a brush assembly (Fig. 2), said brush assembly including a retainer or backplane 18 with at least one brush attached to said backplane 18 such that a plurality of fibers or bristles (since it's felt) on said at least one brush "faces outward" (a broad phrase here) from

said backplane 30, and a resilient clamping mechanism 23 which attaches said brush assembly to a workstation by stretching and then contracting onto said workstation (p. 2, lines 53-70).

As for claim 1 specifically reciting that the brush assembly is attached “to a faucet” and claim 2 reciting that said brush assembly pivots “in and out of line with a water stream”, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 2, said clamping member is effective for pivoting said brush assembly in and out of line with a workstation.

As for claims 1 and 6 specifically reciting that the brush assembly is attached (or removably attached) “to a faucet,” a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 7, said clamping mechanism includes a rigid mounting member connected to said brush assembly.

As for claim 8, said clamping mechanism includes a rigid mounting member integral with said brush assembly (at final assembly).

As for claim 18, Rex teaches a cleaning apparatus in Fig. 2 comprising a brush assembly which includes a pad or brush 17 removably attached, if so desired, to a

retainer or brace 18 , said brush including a plurality of fibers or bristles (since it's felt), said brush 17 having at least one cleaning surface, and wherein said brace 18 is selectively engageable with a workstation such that said brace 18 is capable of being manipulated with respect to said workstation between a first pre-selected position (i.e., off the workstation) and a second pre-selected position (i.e., on the workstation).

As for claim 18 specifically reciting that the brush assembly is "selectively engageable with a faucet", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

As for claim 19, said at least one brush is two opposed brushes each facing outwards from said backplane (Figs. 2 and 3).

Claim Rejections - 35 USC § 102

5. Claims 13 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hubert 2,019,705 (hereinafter Hubert).

The patent to Hubert discloses in Figs. 1 and 4, for example, a brush assembly, said brush assembly including a "backplane" merely defined by the twisted wire plane 100 (Fig. 4) with at least one brush attached to said backplane such that a plurality of bristles 18 on said at least one brush faces outward from said backplane, and a clamping mechanism 48', 50', 154 which removably attaches said brush assembly to a faucet, wherein said clamping mechanism includes a hose or rod 150 having first and

second ends, wherein said first end is connected to an end portion of said brush assembly (at least indirectly) and said second end is connected to said faucet (Fig. 4).

As for claim 20, said at least one brush is two opposed brushes each facing outwards from said "backplane" 100 (Fig. 4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 4, 5, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rix.

As for claims 3, 4, 5, 9 and 10, Rix's backplane and clamping mechanism is of metal (p. 2, lines 1-6) and it would have been obvious to one of ordinary skill in the art to have chosen such specific metals such as stainless steel to prevent rust buildup and for durability and stability purposes when attached to a workstation.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hubert.

As for claim 14 reciting that said second end is connected to said faucet via an internally threaded connector which screws into a faucet head of said faucet, it is the Examiner's position that an internally threaded connector arrangement is old and well known in the faucet or hose art and that it would have been obvious to one of ordinary

skill to have utilized an internally threaded connector arrangement for the purpose of more securely fastening the rod to the faucet. Further, it is well known that faucets typically have threaded ends to accommodate and connect various types of attachments.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Pfeufer, Racioppi, and Russell are relevant to various brush arrangements attachable to a workstation.

10. Applicant's arguments with respect to claims 1-10, 13, 14 and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723

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